

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF MISSOURI
WESTERN DIVISION

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	Criminal Action No.
v.)	06-0097REL-01
)	
PEDRO CERVANTES,)	
)	
Defendant.)	

DETENTION ORDER

On June 26, 2006, I held a detention hearing. I find by a preponderance of evidence that there is no condition or combination of conditions of release that will reasonably assure the appearance of defendant as required.

I. BACKGROUND

On June 21, 2006, a complaint was filed charging defendant with one count of conspiracy to distribute methamphetamine, in violation of 21 U.S.C. § 846. Defendant was arrested and appeared before Judge Sarah Hays for an initial appearance. During the initial appearance proceeding, the government filed a motion for a detention hearing and a motion to continue the hearing for three days. Those motions were granted and defendant was remanded to the custody of the United States Marshal.

On June 26, 2006, the detention hearing was held. Defendant appeared in person, represented by Assistant Federal Public Defender Robert Kuchar. The government was represented by Assistant United States Attorney Mike

Oliver. The parties stipulated that the court consider the information in the Pretrial Services Report of Pretrial Services Officer Nick Zych as the testimony he would give, under oath, if called as a witness. No other evidence was offered by either party.

II. FINDINGS OF FACT

On the basis of the information contained in the report of Pretrial Services Officer Nick Zych, I find that:

1. Defendant, 21, was born and raised in Mexico and he is an illegal resident of the United States. He moved to the United States nine years ago living in Michigan for three years, then moving to Kansas City six years ago. He has lived with a friend in Lee's Summit for the past two or three weeks. The U.S. Bureau of Immigration and Customs Enforcement Office confirmed defendant's illegal residence status, indicating he faces removal proceedings if released and a detainer has been lodged with the United States Marshal.

2. Defendant's parents live in Mexico. He has two siblings in Kansas City illegally, one sibling in Michigan, and one sibling in California. Defendant is single and has no children. Defendant's brother is not willing to assist defendant with bond.

3. Defendant has been unemployed for the past five months. He has no significant financial assets or liabilities. Defendant has no known criminal history.

4. Defendant faces a minimum prison sentence of five years and a maximum prison sentence of 20 years if convicted.

III. CONCLUSION

I find by a preponderance of the evidence that no single condition of release or combination of conditions of release will reasonably assure the appearance of defendant as required. Defendant is a citizen of Mexico, his parents live in Mexico, he has two siblings in the United States who are illegal residents, he is unemployed, he does not have a stable residence, and an ICE detainer has been lodged with the United States Marshal. In addition, I find that defendant has failed to rebut the presumption provided for in 18 U.S.C. § 3142(e) that no condition or combination of conditions of release will reasonably assure the appearance of defendant as required.

It is, therefore

ORDERED that the defendant be committed to the custody of the Attorney General or his authorized representative for detention pending grand jury action and, if an indictment is returned, pending trial. It is further

ORDERED that the defendant be confined in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. It is further

ORDERED that the Attorney General or his authorized representative ensure that the defendant is afforded reasonable opportunity for private

consultation with his counsel. It is further

ORDERED that, on order of a court in the Western District of Missouri, the person in charge of the corrections facility where defendant is confined deliver the defendant to a United States Marshal for his appearance in connection with a court proceeding.

/s/ Robert E. Larsen

ROBERT E. LARSEN
United States Magistrate Judge

Kansas City, Missouri
June 26, 2006